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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/622,344   | 07/18/2003  | Bruce M. Ruana       | RUANA-002CIA        | 4786             |
| 28661  | 7590        | 05/18/2005           | EXAMINER            |                  |
| SIERRA PATENT GROUP, LTD.<br>P O BOX 6149<br>STATELINE, NV 89449 |             |                      | HOGE, GARY CHAPMAN  |                  |
|  |             |                      | ART UNIT            | PAPER NUMBER     |
|  |             |                      | 3611                |                  |

DATE MAILED: 05/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                                      |  |  |
|------------------------------|--------------------------------------|--|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/622,344 | <b>Applicant(s)</b><br>RUANA, BRUCE M. |  |
|                              | <b>Examiner</b><br>Gary C Hoge       | <b>Art Unit</b><br>3611                |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,3-12 and 14-27 is/are pending in the application.  
     4a) Of the above claim(s) 9,21,24 and 25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-8,11,12,14,16-20,23,26 and 27 is/are rejected.
- 7) ☒ Claim(s) 10,15 and 22 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

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## DETAILED ACTION

### *Election/Restrictions*

1. Claims 9, 21, 24 and 25 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on February 28, 2005.

### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 11, 23 and 27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. There is no antecedent basis for "the folding advertising surface."

### *Claim Rejections - 35 USC § 103*

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 3-8, 11-14, 16-20, 23, 26 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pettigrew et al. in view of Duer.

Pettigrew et al. discloses a system comprising a railing/grab bar/pole 116 of a shopping cart having an outer surface, the outer surface of the railing having a circumference; a body 600 having a first side and a second side opposite the first side; the body further comprising a first

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edge, a second edge opposite the first edge, a distance between the first edge and the second edge, and a width defined by the distance between the first edge and the second edge. Although Fig. 4 shows the width being less than the circumference of the outer surface of the railing, on column 3, lines 37-44, Pettigrew discloses that the body may cover between 50% and 150% of the area and length of the railing. That range includes the case in which the body covers 100% of the area and length of the railing. A releasable adhesive is disposed on the second side of the body. However, Pettigrew does not disclose putting indicia on the outer surface of the body. Duer teaches that it was known in the art to provide advertising indicia on the outer surface of a body of the type disclosed by Pettigrew. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the body disclosed by Pettigrew with advertising indicia, as taught by Duer, in order to advertise products for sale in the store in which the cart is used.

Regarding claim 3, see column 1, line 50.

Regarding claims 4-7 and 16-19, the method of forming the device is not germane to the issue of patentability of the device itself. Therefore, this limitation does not distinguish over the prior art.

Regarding claims 8 and 20, the ink disclosed by Duer is a conventional ink.

***Allowable Subject Matter***

6. Claims 10, 15 and 22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

*Response to Arguments*

7. Applicant's arguments with respect to claims 1, 3-8, 10-12, 14-20, 22, 23, 26 and 27 have been considered but are moot in view of the new ground(s) of rejection.

*Conclusion*

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary C Hoge whose telephone number is (571) 272-6645. The examiner can normally be reached on 5-4-9.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on (703) 308-0629. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Gary C Hoge  
Primary Examiner  
Art Unit 3611

gch